

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1-11, 15-17, and 20-34 will be pending in the present application. Claim 34 have been newly added, and claims 12-14, 18, and 19 have been cancelled.

New claim 34 corresponds, in general, to claim 16 from the parent application, which was deemed allowable over the cited references.

Claims 12-14 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,626,175 to Jafari et al. ("the '175 patent"). In the interest in obtaining issuance of the allowed claims, claims 12-14 have been cancelled. It should be noted, that in canceling claims 12-14, applicant does not admit that the rejection of these claims is proper. Applicant respectfully reserves the right to pursue these claims in a further continuation application. Accordingly, applicant respectfully requests that the above rejection of claims 12-14 be withdrawn.

Claims 1-7, 12-14, 18, 19, 22-26, and 32 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 12, 14, 18, 19, 22-26, and 32 of U.S. Patent No. 7,168,429 to Matthews et al. ("the '429 patent"). Claims 12, 14, 18, and 19 have been cancelled thereby rendering their rejection moot. As suggested by the Examiner, a Terminal Disclaimer executed by the undersigned applicant's representative in compliance with 37 C.F.R. § 1.321(c) is submitted herewith to disclaim the term of a patent resulting from the present application from extending beyond that of the '429 patent. Accordingly, applicants respectfully requests that the above obviousness-type double patent rejection be withdrawn.

The Commission is authorized to charge the Terminal Disclaimer fee required under 37 C.F.R. § 1.20(d) to deposit account no. 50-0558.

MATTHEWS et al. -- Appln. No.: 10/788,507

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By Michael W. Haas
Michael W. Haas
Reg. No.: 35,174
Tel. No.: (724) 387-5026
Fax No.: (724) 387-5021

RESPIRONICS, INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525

Note: The Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 50-0558.